IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 5526 of 2006

Date of decision: 14.09.2007

Smt. Dolly

.....Petitioner

Versus

The Controlling Authority (under the Payment of Gratuity Act) and Labour-cum-Conciliation Officer, Kapurthala and another

.....Respondent

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

Present: Mr. Sunil Chadha, Advocate
for the petitioner

Mr. R.S. Sharma, Advocate
for the respondent

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HEMANT GUPTA, J. (Oral)

This order shall dispose of Civil Revision Petitions No. 5523 , 5524, 5525 and 5526 of 2006. For facility of reference, facts are being taken from Civil Revision No. 5523 of 2006.

The grievance of the petitioner in these four revision petitions is that the petitioner has been made liable for payment of amount of gratuity due to the respondents, although the said respondents were employed by the Company-M/s Khalsa Electricals Pvt. Limited, of which her husband was Managing Director during his life time.

It is brought to the notice of the Court that on 29.01.2004, the learned Controlling Authority (under the Payment of Gratuity Act, 1972) had passed an ex-parte order against the Managing Director of the Company-M/s

Khalsa Electricals Pvt. Limited and the petitioner. The petitioner has been directed to pay the amount of gratuity after the ex parte proceedings were initiated against her and the Managing Director of the Company.

After the ex parte order was passed, the petitioner filed an application in Civil Revision Nos. 5523 of 2006 and 5524 of 2006 under Order 9 Rule 13 of the Code of Civil Procedure for setting aside ex-parte order, whereas in Civil Revision Nos. 5525 of 2006 and 5526 of 2006, petitioner filed objection, objecting to the execution of the order against the petitioner . Primarily, the ground taken by the petitioner is that as legal heir of the deceased, Managing Director of the Company, the amount of gratuity cannot be recovered personally from her as it can only be recovered from the Company or from the assets of the Company.

The fact that the petitioner is the wife of Karam Singh Vijay, the deceased Managing Director of the Company is not disputed. It is also not disputed that the respondents were, in fact, employees of the Company-M/s Khalsa Electricals Pvt. Limited. Therefore, after the death of the husband of the petitioner, she cannot be made personally responsible for payment of any amount of gratuity due and payable by the Company, to its employees.

In view of the said fact, the present revision petition is allowed. The recovery proceedings initiated against the petitioner are set aside. However, it shall be open to the respondents to recover the amount of gratuity from the Company or from the assets of the Company in accordance with law.

(HEMANT GUPTA)
JUDGE

September 14,2007
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